

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Courts
Southern District of Texas
FILED

NOV 01 2022

Nathan Ochsner, Clerk of Court

MATTHEW BAKER; ROBERT ANDREWS; §
TIMOTHY CONE; ALLEN KERNS; §
JAMES ELMORE; ADAM THOMAS; §
WILLIAM OLIVER; SETH BATTERTON; §
DANNIE CARTER; and JUAN MARTINEZ §

Individually and on behalf of all §
others similarly situated. §

PLAINTIFFS, §

V. §

CIVIL ACTION No. _____

BRYAN COLLIER; OSCAR MENDOZA; §
BOBBY LUMPKIN; PATRICK D. §
O'DANIEL; DERRELYNN PERRYMAN; §
LARRY D. MILES; E.F. MANO §
DeAYALA; MOLLY FRANCIS; §
FAITH JOHNSON; SICHAN SIV; §
ERIC NICHOLS; and RODNEY §
BURROW §

Individually and in his or her §
official capacity. §

DEFENDANTS. §

ORIGINAL COMPLAINT

I.
JURISDICTION AND VENUE

1. This is a civil action authorized by 42 U.S.C. 1983 to redress the depre-
vation, under color of state law, of rights secured by the Constitution
of the United States. The Court has jurisdiction under 28 U.S.C. 1331
and 1343(a)(3). Plaintiffs seek declaratory relief pursuant to 28 U.S.C.
2201 and 2202. Plaintiffs claims for injunctive relief are authorized
by 28 U.S.C. 2283 & 2284, and Rule 65 of the Federal Rules of Civil
Procedure.
2. The Southern District of Texas is an appropriate venue under 28 U.S.C.
1391(b)(2) because it is where the events giving rise to this claim
occurred.

II.
PLAINTIFFS

3. Plaintiff Matthew Baker is and was at all times mentioned herein a prisoner of the State of Texas in the custody of the Texas Department of Criminal Justice. He is currently assigned to the French M. Robertson Unit, in Abilene, Texas.
4. Plaintiff Robert Andrews is and was at all times mentioned herein a prisoner of the State of Texas in the custody of the Texas Department of Criminal Justice. He is currently assigned to the French M. Robertson Unit, in Abilene, Texas.
5. Plaintiff Timothy Cone is and was at all times mentioned herein a prisoner of the State of Texas in the custody of the Texas Department of Criminal Justice. He is currently assigned to the French M. Robertson Unit, in Abilene, Texas.
6. Plaintiff Allen Kerns is and was at all times mentioned herein a prisoner of the State of Texas in the custody of the Texas Department of Criminal Justice. He is currently assigned to the French M. Robertson Unit, in Abilene, Texas.
7. Plaintiff James Elmore is and was at all times mentioned herein a prisoner of the State of Texas in the custody of the Texas Department of Criminal Justice. He is currently assigned to the French M. Robertson Unit, in Abilene, Texas.
8. Plaintiff Adam Thomas is and was at all times mentioned herein a prisoner of the State of Texas in the custody of the Texas Department of Criminal Justice. He is currently assigned to the French M. Robertson unit, in Abilene, Texas.
9. Plaintiff William Oliver is and was at all times mentioned herein a prisoner of the State of Texas in the custody of the Texas Department of Criminal Justice. He is currently assigned to the French M. Robertson Unit, in Abilene, Texas.

10. Plaintiff Seth Batterton is and was at all times mentioned herein a prisoner of the State of Texas in the custody of the Texas Department of Criminal Justice. He is currently assigned to the French M. Robertson Unit, in Abilene, Texas.
11. Plaintiff Dannie Carter is and was at all times mentioned herein a prisoner of the State of Texas in the custody of the Texas Department of Criminal Justice. He is currently assigned to the French M. Robertson Unit, in Abilene, Texas.
12. Plaintiff Juan Martinez is and was at all times mentioned herein a prisoner of the State of Texas in the custody of the Texas Department of Criminal Justice. He is currently assigned to the French M. Robertson Unit, in Abilene, Texas.

III.
DEFENDANTS

13. Defendant Bryan Collier is the Executive Director of the Texas Department of Criminal Justice. He is legally responsible for providing safe and appropriate confinement, supervision, rehabilitation and reintegration of TDCJ Residents, and to effectively manage or administer facilities based on Constitutional and statutory standards.
14. Defendant Oscar Mendoza is the Deputy Executive Director of the Texas Department of Criminal Justice. He is legally responsible for providing safe and appropriate confinement, supervision, rehabilitation and reintegration of TDCJ Residents, and to effectively manage or administer facilities based on Constitutional and statutory standards.
15. Defendant Bobby Lumpkin is the Director of the Correctional Institutions Division of the Texas Department of Criminal Justice. He is legally responsible for providing safe and appropriate confinement, supervision, rehabilitation and reintegration of TDCJ Residents, and to effectively manage or administer facilities based on Constitutional and statutory standards.

16. Defendant Patrick L. O'Daniel is the Chairman of the Texas Board of Criminal Justice and is legally responsible for the creation of policy for the Texas Department of Criminal Justice. He is also responsible, as a Board Member, for the oversight of the operation of TDCJ and for the welfare of all residents in the TDCJ.
17. Defendant Derrellynn Perryman is the Vice-Chairman of the Texas Board of Criminal Justice and is legally responsible for the creation of policy for the Texas Department of Criminal Justice. She is also responsible, as a Board member, for the oversight of the operation of TDCJ and for the welfare of all residents in the TDCJ.
18. Defendant Larry D. Miles is the secretary of the Texas Board of Criminal Justice and is legally responsible for the creation of policy for the Texas Department of Criminal Justice. He is also responsible, as a Board Member, for the oversight of the operation of TDCJ and for the welfare of all residents in the TDCJ.
19. Defendant E.F. Mano DeAyala is a member of the Texas Board of Criminal Justice and is legally responsible for the creation of policy for the Texas Department of Criminal Justice. He is also responsible, as a Board Member, for the oversight of the operations of TDCJ and for the welfare of all residents in the TDCJ.
20. Defendant Molly Francis is a member of the Texas Board of Criminal Justice and is legally responsible for the creation of policy for the Texas Department of Criminal Justice. She is also responsible, as a Board Member, for the oversight of the operation of TDCJ and for the welfare of all residents in the TDCJ.
21. Defendant Faith Johnson is a member of the Texas Board of Criminal Justice and is legally responsible for the creation of policy for the Texas Department of Criminal Justice. She is also responsible, as a Board Member, for the oversight of the operation of TDCJ and for the welfare of all residents in the TDCJ.

22. Defendant Sichan Siv is a member of the Texas Board of Criminal Justice and is legally responsible for the creation of policy for the Texas Department of Criminal Justice. He is also responsible, as a Board Member, for the oversight of the operation of TDCJ and for the welfare of all residents in the TDCJ.
23. Defendant Eric Nichols is a member of the Texas Board of Criminal Justice and is legally responsible for the creation of policy for the Texas Department of Criminal Justice. He is also responsible, as a Board member, for the oversight of the operation of TDCJ and for the welfare of all residents in the TDCJ.
24. Defendant Rodney Burrow is a member of the Texas Board of Criminal Justice and is legally responsible for the creation of policy for the Texas Department of Criminal Justice. He is also responsible, as a Board member, for the oversight of the operation of TDCJ and for the welfare of all residents in the TDCJ.
25. Each Defendant is sued individually and in his or her official capacity. At all times mentioned in this Complaint, each Defendant acted under the color of state law.

IV. FACTS

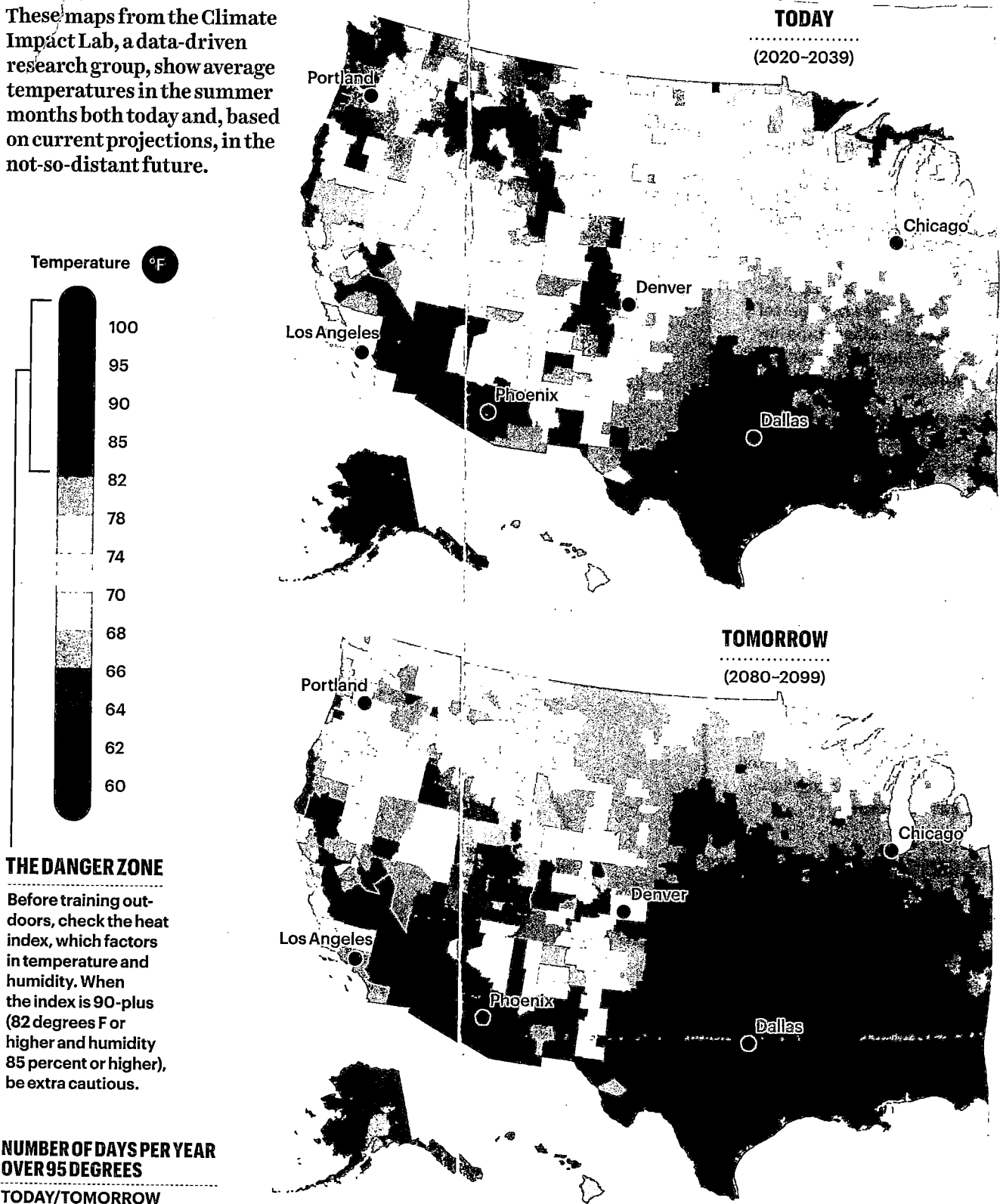
26. Incarcerated Residents of the Texas Department of Criminal Justice are HUMAN.
27. Because they are human, they are inherently susceptible to all limitations and ailments as all other humans - including exposure to extreme temperatures. For example, at 100°F heatstroke becomes imminent even for those in good health.
28. The Earth's climate is warming, meaning that the temperatures of the lower atmosphere and ocean have been increasing over many decades. Average global surface air temperatures warmed by about 1.5°F between 1880 and 2012. See, Texas A&M University. 2022. "Faculty Statement on Climate

Change" <<http://atmo.tamu.edu/about/faculty-statement-climate-change/index.html>>

29. Under so-called "business-as-usual" emissions scenarios, additional global-average warming (relative at a 1986-2005 baseline) would likely be 2.5-7°F by the end of this century. Texas A&M University, id.
30. As such, continued rising of atmospheric and oceanic temperatures present the risk of serious challenges to human society and ecosystems. Texas A&M University, id.
31. The impacts of climate change are affecting people in every region of the country, threatening lives and livelihoods and damaging infrastructure, ecosystems, and social systems in communities across the nation. Certain communities and individuals are particularly vulnerable to these impacts, including low-income communities and communities of color, children, the elderly, tribes and indigenous people. Climate change can also exacerbate existing pollution problems and environmental stressors. See, U.S. Environmental Protection Agency Policy Statement on Climate Change <<https://www.epa.gov/climate-adaptation/climate-adaptation-policy-statement>>
32. Some of the effects of climate change are likely to include more variable weather, heat waves, heavy precipitation events, flooding, droughts, more intense storms such as hurricanes, sea level rise, and air pollution. Each of these changes has the potential to negatively affect health. While climate change is recognized as a global issue, the effects will vary across geographic regions and populations. See, Centers for Disease Control and Prevention. 2019. "CDC Policy on Climate Change and Public Health" <https://www.cdc.gov/climateandhealth/pubs/climate_change_policy.pdf>
33. The greenhouse gases (GHGs) in the atmosphere trap radiant energy, warming earth's surface and oceans. Scientific assessments conclude that GHGs very likely have been the main driver of warming of the earth's lower atmosphere since 1979. The most recent global assessment projected that surface temperatures would continue to rise until at least mid-century even under the lowest GHG emission scenarios considered. See, Congressional Research Service. 2021. "U.S. Climate Change Policy" <<https://crsreport.congress.gov/product/pdf/R/R46947>>

34. It is common knowledge that Texas is a state prone to extreme temperatures and drought. In mid-August 2022, 97% of Texas was experiencing either the first or second most severe category of drought. According to the Climate Impact Lab, temperatures in the Texas summer months average 74 days over 95°F. By 2036, there will be nearly twice as many 100°F days as they are today.

35. These maps from the Climate Impact Lab, a data-driven research group, show average temperatures in the summer months both today and, based on current projections, in the not-so-distant future.



36. In Abilene, Texas, the summer of 2022 exceeded this average of 74 days over 95°F. Specifically, there was 134 days over 90°F; 100 days over 95°F; 64 days over 100°F; 32 days over 103°F; and 17 days over 105°F. The maximum temperature on the 7th, 8th and 19th May 2022 was 106°F; while the maximum temperature on 12th June 2022 was 108°F and on 19th July 2022 it was 110°F.
37. In light of authorities projections on climate change, the extreme temperatures experienced in 2022 will likely become the norm in Texas, rather than the exception.
38. Due to the propensity of extreme heat, the Texas authorities have made it illegal to leave a child or pet unattended in a car. The rationale for this law is just and obvious. The inside temperature of an enclosed space like a vehicle can quickly reach unsafe and dangerous temperatures that can cause heatstroke and subsequent disability or death.
39. As David Fathi, director of the American Civil Liberties Union National Prison Project, explained to The Intercept: "Everyone understands that if you leave a child in a car on a hot day, there's a serious risk this child could be injured or die. And that's exactly what we're doing when we leave prisoners locked in cells when the heat and humidity climb beyond a certain level". Although children and pets may be more vulnerable to heat, adults can also become permanently disabled or die through heatstroke and exposure to extreme heat. This occurs when the body temperature reaches 103°F or higher, which prohibits the human body from regulating its core temperature through perspiration.
40. Plaintiffs highlight the materially indistinguishable similarities between the heat risks and dangers caused by confinement in a vehicle and confinement in a prison cell. Both are confined spaces where the occupant has absolutely no control over the temperature or ability to properly mitigate such. Both spaces have an innate propensity to quickly reach unsafe and deadly temperatures.

41. Throughout the history of imprisonment in Texas, incarcerated residents have experienced great harm from extreme heat. Although the number of incarcerated residents who have fallen ill or died from exposure to extreme heat throughout Texas' carceral history is unknown (accurate records have not been kept by authorities), there are notable clusters of heat related illnesses and deaths.
42. Within the TDCJ there are currently 70 units/facilities that are not fully air-conditioned and thus have no way to keep temperatures at humane levels. 49 of the 70 units are partially air-conditioned, while the remaining 21 units have no air-conditioning at all. This constitutes a collective 107,295 TDCJ beds where residents are exposed to extreme temperatures in their housing areas without the means to meaningfully regulate the temperature.
43. The 49 TDCJ units that are partially air-conditioned are:

	No. Beds w/o AC	No. Beds w/ AC	Unit Capacity
Allred	2865	857	3722
Boyd	1365	7	1372
Bradshaw	216	40	256
Briscoe	369	1015	1384
Clements	2464	1334	3798
Cole	875	25	900
Connally	1626	522	2148
Crain	1327	788	2115
Dalhart	1391	7	1398
Daniel	1377	7	1384
Dominguez	2066	210	2276
Estelle	2500	980	3480
Formby	1075	25	1100
Garza West	2228	50	2278
Gist	2068	208	2276
Goodman	609	3	612
Hobby	1377	7	1384
Holliday	2078	50	2128
Hughes	2462	522	2984
Hutchins	2066	210	2276
Jester III	891	240	1131
Johnston	609	3	612
Jordan	1001	7	1008
Lewis	1250	982	2232
Lychner	2070	206	2276
Lynaugh	1409	7	1416

43 - continued.

	No. Beds w/o AC	No. Beds w/ AC	Unit Capacity
McConnell	2373	527	2900
Michael	2778	527	3305
Middleton	2078	50	2128
Montford	467	577	1044
Moore, C.	1217	7	1224
Mountain View	35	610	645
Murray	1052	289	1341
Plane	2083	208	2291
Polunsky	2463	521	2984
Roach	1644	7	1651
Robertson	2469	515	2984
Sanchez	1070	30	1100
Sayle	20	612	632
Segovia	?	?	1224
Smith	1394	840	2234
Stevenson	1377	7	1384
Stiles	2176	805	2981
Telford	2256	616	2872
Torres	1377	7	1384
Wallace	1441	7	1448
Wheeler	573	3	576
Woodman	875	25	900
Young	84	371	455
TOTAL	70,936	15,473	87,633

<SOURCE: TPCA Information Request and TDCJ website>

44. The 21 TDCJ units that have no air-conditioning at all are:

	Unit Capacity
Baten	?
Beto	3471
Byrd	1365
Clemens	1536
Coffield	4139
Ellis	2482
Ferguson	2421
Goree	1321
Hightower	1384
Hilltop	553
Huntsville	1705
Lopez	1100
Luther	1316
Darrington	1931 (Also known as Memorial Unit)
Powledge	1137
Ramsey	1891
Stringfellow	1531
Terrell	1603
Vance	378
Wainwright	2474 (Also known a Eastham Unit)
Wynne	2621
TOTAL	36,359

45. There are more beds in TDCJ without air-conditioning than the entire prison populations of Alabama, Arkansas, Georgia, and New Mexico combined. See, National Prisoner Statistics Program, Bureau of Justice Statistics (BJS), U.S. Dept. of Justice, 2019.
46. Plaintiffs assert that increasing annual temperatures and the increase of days over 100°F in Texas will continue to exacerbate the degradation of health for both incarcerated residents and TDCJ staff without the installation of universal air-conditioning/climate control.
47. TDCJ policy is designed to merely mitigate the effects of heat exposure rather than actually preventing the conditions that place its residents at serious risk to harm by extreme temperatures.
48. Without air-conditioning throughout all units, TDCJ policies primarily aim to mitigate the impact of extreme temperatures by providing drinking water, ice used to cool water temperature, additional cooled showers, fans, and cooled "respite" areas.
49. Despite these current heat mitigation policies, nearly every year, there are reports of TDCJ residents and staff falling extremely ill and/or dying from complications from extreme heat in Texas prisons. Upon belief and information, Plaintiffs assert that such instances are not adequately or correctly recorded and reported by Defendants to the Texas Legislature as required by Agency Rider 56, in the Fiscal year 2022-2023 General Appropriations Act, Monitoring of Temperature and Temperature-Related Deaths.
50. Based upon the facts stated below, Plaintiffs assert that current heat mitigation policies and practices do not result in adequate protection against heat-related illness or death for TDCJ residents, yet alone prevent the conditions that cause such. In some instances, the mitigation actually aggravates the conditions caused by lack of air-conditioning.

HEAT-RELATED ILLNESSES

51. Extreme heat makes it difficult for the human body to properly regulate its temperature thereby leading to illnesses including cramps, heat stroke, heat exhaustion and hyperthermia. See, National Integrated Heat Health Information System. 2022. "Extreme Heat"; CDC. 2017 "About Extreme Heat".
52. According to the CDC, "heat stroke is the most serious heat-related illness. It occurs when the body becomes unable to control its temperature: the body's temperature rises rapidly, the sweating mechanism fails, and the body is unable to cool down. When heat stroke occurs, the body temperature can rise to 106°F or higher within 10 to 15 minutes. Heat stroke can cause death or permanent disability if emergency treatment is not given". See, CDC, 2018. "Heat Related Illnesses" <<http://www.cdc.gov/noish/topics/heatstress/heatrelillness.html>>.
53. According to TDCJ, "a person can begin to feel the effects of heat exhaustion in temperatures as low as 80 degrees" and that "risks for heat stroke begin at temperatures of 91 degrees", while at 95 degrees "there can be an imminent danger of developing heat stroke". See, "TDCJ Risk Management's Training Circular". Risk Management Issues. 14 (5): 1-4 <https://www.tdcj.texas.gov/documents/training_circular/Training_Circular_2014-05.pdf>
54. Research has also shown a relationship between hot temperatures and increased aggression by directly increasing feelings of hostility and indirectly increasing aggressive thoughts. This heat-created aggression could potentially lead to violence and even homicide within the prison environment, as well as the increased reporting of use of force incidents by TDCJ staff against residents.
55. Extreme heat and even access to daylight (two particularly relevant conditions in Texas prisons) have been shown to have a relationship to deaths by suicides. See, Horton, Michelle. 2018. "Stanford researchers find warming temperatures could increase suicide rate across the US and Mexico". Stanford News, 23rd July 2018 <<https://news.stanford.edu/2018/07/23/warming-temperatures-linked-increased-suicide-rates/>>.

56. According to an information request made by Texas Prisons Community Advocates (TPCA) to TDCJ, at least 1,391 residents within TDCJ were documented as having attempted suicide in 2019 and 35 residents died by suicide. In 2020, the number of residents who died by suicide increased to 50.

FANS

57. The primary heat mitigation measure within TDCJ is the use of electric fans in the absence of air-conditioning on TDCJ units.

58. A "Whirlwind" personal fan is available to residents through the unit commissary. As of this filing, a "Whirlwind" fan costs \$20.00. A resident may purchase two "Whirlwind" fans for use in their cell.

59. Stationary industrial type fans are mounted in each dayroom of the unit.

60. Although fans are commonly used in environments without access to air-conditioning, there are compelling reasons NOT to use them when temperatures reach above 95°F. Numerous health organizations and studies have described the dangers of relying on electronic fans to mitigate the risk of heat related illness.

61. The U.S. Environmental Protection Agency (EPA) has reported that unless a fan is circulating cooled air from another source, fans can likely increase the circulation of hot air leading to increased sweat evaporation which can speed the onset of heat-attributable conditions such as heat exhaustion. See, EPA. 2016. "Excessive Heat Events Guidebook" <https://www.epa.gov/sites/default/files/2016-03/documents/ehguide_final.pdf>

62. The World Meteorological Organization (WMO) and the World Health Organization (WHO) has explained that : "Fans do not actually cool the air... when the weather is very hot and dry, using a fan alone when body core temperatures exceed 38°C [100.4°F] actually increases heat stress, because of the limits of conduction and convection. When the temperature is more than 35°C [95°F] and the relative humidity is 100 per cent, air movement can make an individual hotter. Thus, fans should be discouraged unless they are bringing in significantly cooler air" <https://www.who.int/globalchange/publications.WMO_WHO_Heat_Health_Guidance_2015.pdf>

63. The Centers for Disease Control and Prevention (CDC) recommend air-conditioning in contrast to relying on electric fans especially considering that air-conditioning reduces the risk of heat-related illness. The CDC explains that: "Electric fans may provide comfort, but when the temperature is in the high 90s, fans will not prevent heat-related illness... Airconditioning is the strongest protective factor against heat-related illness". See, CDC.2012. "Natural Disaster and Severe Weather: Extreme Heat" <<https://www.cdc.gov/disasters/extremeheat/faq.html>>.
64. During the expert testimony of Dr. McGeehin before this Court in Cole, et al., v. Livingston, et al., 4:14-CV-1698, he indicated that while fans may have a mitigation effect, they are actually counterproductive at high temperatures: "Although fans provide a cooling effect by evaporating sweat, fan use can pose a significant risk when the heat index exceeds... 99 degrees Fahrenheit... because it serves to increase heat stress by blowing air that is warmer than body temperature over the skin surface". This Court found Dr. McGeehin's testimony to be credible. See, 2016 U.S. Dist. LEXIS 77435.
65. Electric fans are thus a counterproductive and dangerous heat mitigation measure when TDCJ residents are exposed to extreme temperatures. Yet the Whirlwind fans are the only heat mitigation available when residents are confined in their cell (which is an increasingly common occurrence due to the historically low levels of staff in TDCJ units).
66. The general scientific and medical consensus is that even if fans are constantly accessible to all TDCJ residents, fans cannot prevent heat illness without the introduction of cooled air, and will actually increase the chance of heat illness by circulating hot air.

ACCESS TO WATER

67. Under conditions of excessive heat, TDCJ policy [AD-10.64] directs that TDCJ residents are to have access to water along with ice in the housing areas, recreation areas, and during meal times.

68. TDCJ distributes water communally in common areas (i.e. dayrooms) through the use of water coolers. These coolers are refilled intermittently and refills are dependant upon available staff. As such, the issue of crowded conditions and low levels of staffing have serious impacts on TDCJ residents access to water. This is because there are not enough filled water coolers to meet the actual demand of the large number of residents, and staff are preoccupied with other tasks and cannot refill the coolers as frequently as is required. Often coolers sit empty for hours.
69. For example, on the Robertson Unit the common section of a wing houses 48 residents. One 10 gallon water cooler is provided per section dayroom. If all 48 residents are to have access to at least 16oz of cool water every hour to sustain normal hydration when temperatures exceed 90°F, the cooler will need to be refilled ever single hour that the dayroom is open (about 18 hours). This scenario however does not take into account the water displacement created by adding blocks of ice to the cooler. This means that a 10 gallon cooler is unable to properly supply all 48 residents with 16oz of cool water every hour. This creates an extremely burdensome situation, and the reality of low staffing in TDCJ means that coolers simply are not available to residents as needed.
70. On the Robertson Unit, the water cooler is the only available drinking water outside the cell because the dayroom drinking fountains have been turned off because of "COVID Protocol" and have yet to be turned back on since the onset of the pandemic.
71. Unsafe water quality is a common and significant concern among TDCJ residents. Unsanitary conditions for water such as dirty coolers and ice machines (bacteria, debris, insects, vermin) and harmful contaminants in the water (feces, E. Coli, H. Pylori, arsenic, lead) expose residents to illness from communal water coolers that can exacerbate other health issues and justify mistrust in the safety of the drinking water and a subsequent hesitancy to drink the required amount of water to stay hydrated in extreme temperatures.

72. TDCJ residents have absolutely no access to cool water when confined to their cells. The only available water source is the water faucet connected to the toilet. This water is not regulated and is often at room temperature. TDCJ policy dictates that staff are to distribute cool water to each cell when the unit is on any kind of lockdown. However, due to short staffing issues and either complacent or overworked staff, this is rarely the case. Even if water is distributed to cells during a lockdown, it is infrequent and not sufficient to provide a resident with the necessary 16oz of cool water every hour to sustain normal hydration when temperatures exceed 90°F.
73. Access to cool water should be provided regardless of temperature, but without air-conditioning, lack of access becomes an issue of life and death.

RESPITE AREAS

74. "Respite areas" are any designated area with air-conditioning that a TDCJ resident may access if they are feeling ill or distress from excessive temperatures.
75. Between September 2019 - August 2020, there were 1,255 grievances filed by TDCJ residents describing issues related to respite areas. The most common complaints were relating to respite areas being unavailable, residents being denied access, or time in respite being cut short or limited against TDCJ policy.
76. The primary issue accessing respite areas comes from the inherent fact that TDCJ residents are not able to walk freely throughout units and therefore require an escort or security oversight in order to access the respite areas. This is viewed by staff as a significant hassle, and subsequently creates tension and outright hostility. This is increasingly the case because of the historically low levels of staff in TDCJ units and the innate challenges this creates.
77. TDCJ residents also report being denied access to respite unless the staff believed that they were experiencing heat-related illness or on the official list of those with medical heat restrictions.

78. During the expert testimony of Dr. Vassallo before this Court in Cole, et al., v. Livingston, et al., 4:14-CV-1698, she testified that the respite areas are not "an adequate plan to deal with the heat risk" precisely because they are only temporary and so "the time [the residents] are not in air-conditioning, they are subjected to the temperatures at the unit which are risky and cause harm, including sickness, morbidity and mortality". She also emphasized that the harmful effects of excessive heat can begin to occur BEFORE an individual might feel the need to go to an air-conditioned space. She explained that because residents must take the initiative to go to a respite area, they may not know they are in imminent danger until it is too late - and especially at night (when it can still exceed safe temperatures), staff are unlikely to notice either. This Court found Dr. Vassallo's testimony to be credible. See, 2016 U.S. Dist. LEXIS 77435.

COOLED SHOWERS

79. TDCJ heat-mitigation measures also allow for "additional cooled showers".

80. During the Cole testimony of Dr. McFeehin and Dr. Vassallo, this Court heard testimony that "taking extra showers" did not reduce the health risks of extreme heat to a "statistically significant" degree (Dr. Vassallo) and that while showers may be helpful "for the short term", "giving a person a shower and then putting them back into a very hot, humid environment has limited effect" (Dr. McFeehin).

HEAT EXPOSURE IN WORK AREAS

81. TDCJ residents do not have the personal right to refuse work even when the temperatures are excessive. According to TDCJ policy, residents "may be required to work in conditions of excessive heat or extreme cold when situations occur requiring specific work be completed regardless of the temperature or weather conditions" See, AD-10.64.

82. As such, TDCJ residents have no control over the frequency of water breaks when working in the heat. Such are under the dictates of TDCJ staff.

83. This does not apply only to work assignments that are outside but also to work environments that are inherently hot such as the kitchen and laundry where extreme heat is compounded by industrial ovens and driers.

84. Refusal to work in such environments is subject to disciplinary actions.

MITIGATION MEASURES ARE INEFFECTUAL

85. No matter how many posters TDCJ places in housing areas reminding residents importance of heat precautions or the importance of water intake, it does nothing to prevent the CONDITIONS that cause exposure to extreme heat.

86. No matter how much water and ice is provided, it does nothing to prevent the CONDITIONS that cause exposure to extreme heat.

87. No matter how many additional showers are authorized, it does nothing to prevent the CONDITIONS that cause exposure to extreme heat.

88. No matter that residents are allowed to wear t-shirts and shorts in the dayroom or recreation areas, it does nothing to prevent the CONDITIONS that cause exposure to extreme heat.

89. No matter how well trained staff are in recognizing the effects of heat related illness or the issuance of "information cards", it does nothing to prevent the CONDITIONS that cause exposure to extreme heat.

90. No matter how many training videos are shown to residents and staff, it does nothing to prevent the CONDITIONS that cause exposure to extreme heat.

91. The above measures taken by TDCJ merely mitigate the results of exposure to extreme heat, but does absolutely nothing to prevent the actual CONDITIONS that cause such.

92. It is not just inadequate staffing, continual overcrowding, and crumbling infrastructure that creates these inhumane circumstances. It is that the heat mitigation policies of TDCJ (even after a decade of trial and error) cannot actually deliver sufficient or effectual protection from the conditions that cause exposure to extreme heat.

93. The only measure that can PREVENT the CONDITIONS is air-conditioning. Without some kind of regulated temperatures, the residents of TDCJ will continue to remain on the brink of potential health emergencies. This has the potential to kill them - but if it does not, it will significantly degrade their health and well-being over time.

EVOLVING STANDARDS OF DECENCY

94. Although 95% of households in the South use air-conditioning, including 90% of households that make below \$20,000 per year, only 30% of Texas prisons are fully air-conditioned. See, U.S. Energy Information Administration's 2015 Residential Energy Consumption Survey.

95. In comparison, county jails in Texas are statutorily required to keep their temperatures between 65 and 85°F.

96. According to Yale Climate Opinion Maps, the share of Texans who say climate change is currently harming people in the United States has risen from 50% in 2018 (slightly below the national average) to 60% in 2021 (just above the national average). This is before the reality of climate change became apparent in the summer of 2022.

97. Rule 13 of the 'United Nations Standard Minimum Rules for the Treatment of Prisoners' (The Mandela Rules) states that: "All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climate conditions and particularly to cubic content of air, minimum floor space, lighting, heat and ventilation".

98. Although this ratified treaty may hold no binding authority upon the states, it does show the consensus of society that extreme and unregulated climate conditions violates contemporary standards of decency. Despite Plaintiffs social status as incarcerated persons, the risk of which they are exposed by extreme heat conditions is not one that today's society chooses to tolerate. Air-conditioning in Texas prisons is not a matter of luxury - but of humane conditions.

NO RELIEF FROM EXTREME HEAT AT NIGHT

99. There are various building styles for units within the Texas Department of Criminal Justice. However most are constructed of steel and concrete which has a relatively slow thermal response compared with the outdoor air. Therefore, the building mass temperature becomes increasingly hot as the day progresses and subsequently retains that heat throughout the majority of the night.

100. Although the outdoor temperature at night may fall below the building mass temperature and thus pulls some warm air from the building, it rarely has the opportunity to equalize with the outside air temperature before the sun rises and the building begins to heat once again without actually cooling off.

101. Residents are provided no relief to the extreme heat exposure because of the innate heat retention of the buildings in which they are housed. This creates another issue that constitutes a deprivation of one of lifes necessities by causing sleep deprivation.

DELIBERATE INDIFFERENCE

102. Defendants have, with deliberate indifference, exposed all TDCJ residents to an ongoing condition that poses an unreasonable risk of serious damage to their present welfare and life, as well as their future health.

103. The danger posed by extreme heat conditions are so obvious that Defendants must either know about it or be purposefully disregarding it.

104. The extensive litigation surrounding extreme heat and the measures taken by Defendants to mitigate such, shows that Defendants fully understand the substantial risk to TDCJ residents health and safety posed by the conditions caused by extreme heat.

105. The grievances filed by Plaintiffs and other TDCJ residents is sufficient to put Defendants on notice of all issues in contention and to allow the Defendants an opportunity to investigate and correct those issues. In response to Plaintiffs' Step 2 grievances, TDCJ admits: "Staff as well as inmates are vulnerable to temperature extremes" (See, Attachment A).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

106. On or about 30th January 2022, Plaintiffs Baker, Andrews, Cone, Martinez, Oliver, Batterton, Thomas, and Carter filed an I-127 (Step 1 grievance) grieving the policy or practice that does not require TDCJ to maintain all housing and work areas between 65°-85°F at its facilities. Plaintiffs asserted that this lack of climate control creates inhumane conditions of confinement that violate the Eighth Amendment (See, Attachment A).

107. The 15th March 2022 response to the I-127 stated: "Investigation revealed TDCJ already has an excessive and extreme temperature conditions, policy in place. Refer to AD-10.64: Excessive and Extreme Temperature Conditions in TDCJ. All staff are trained on the policy and implement the policy during the hot and cold seasons. At this time, there is no need to change, adapt, or update the current policy in place. No action warranted."

108. Plaintiffs then filed a timely I-128 (Step 2 grievance) and explained that AD-10.64 states absolutely nothing about maintaining temperatures between 65°-85°F, and that everything mentioned in that directive is designed to merely MITIGATE THE EFFECTS of exposure and not PREVENT THE CONDITIONS that place TDCJ residents at serious risk to their health and lives by extreme temperatures.

109. On 24th May 2022, H.M. Pederson responded to the I-128 of Plaintiffs Andrews and Martinez and stated: "Your Step 2 grievance and complaint concerning your living conditions have been reviewed. Unit maintenance informed the temperature is set according to policy. Every staff member within the TDCJ is required to be knowledgeable of the information presented in Administrative Directive - 10.64 (AD-10.64), Excessive and Extreme Temperature Conditions in the TDCJ to assist in the prevention, recognition, and treatment of heat and/or cold related illnesses and/or injuries. Keep in mind, staff as well as inmates are vulnerable to temperature extremes and the TDCJ makes every effort to provide all with adequate and acceptable working and living conditions, however, units are limited to working with whatever means are available to them. Remember to contact security staff in your area for immediate assistance if you feel you are experiencing any symptoms that may indicate a temperature related illness or injury. No evidence of staff misconduct or policy violations found. No further action is warranted" (See, Attachment A)
110. On 22nd July 2022, J. Back responded to the I-128 of Plaintiffs Carter, Thomas, Oliver, Batterton, Cone, and Baker, and stated: "Your Step 2 grievance has been investigated by this office. You were appropriately advised at the Step 1 level. Furthermore, the agency remains committed to ensuring inmates are safe during temperature extremes. Policy will continue to be adhered to. If you are having a medical issue related to temperature, contact Health Services. If you are having a temperature related concern at your unit of assignment, notify a security supervisor. Assistance will be provided. Based on the information available at this time, no further action is warranted." (See, Attachment A)
111. Plaintiffs Andrews and Martinez did not receive their I-128 response until after 8th August 2022. Plaintiffs Carter, Thomas, Oliver, Batterton, Cone, and Baker did not receive their response until after 30th August 2022 - contrary to the requirements of 28 C.F.R. 40.7(e) ["In all instances grievances must be processed from initiation to final deposition within 180 days, inclusive of any extensions"].

112. On or about 9th May 2022, Plaintiffs Kerns, Elmore, and Andrews (along with over 60 other residents on the Robertson Unit) filed a I-127 stating that on 8th May 2022 (Mothers Day) at 12-noon, the Robertson Unit was placed on lockdown due to short staff, and residents were confined to their cells. On this day the heat index temperature exceeded 106°F. The I-127 claimed that TDCJ showed deliberate indifference towards their safety by confining residents to their cells during the hottest part of the day. Residents were not provided cold water, showers, or access to respite areas. The I-127 also states that "this is a common practice of TDCJ" (See, Attachment B).
113. On 10th June 2022, Warden J. Cozby responded to the I-127 stating: "Inmates were given the opportunity to come out of their cells for cold showers. Inmates were observed using the regular showers and cold showers while others were in the dayroom. Respite areas are available upon request. There was no evidence found to support your allegation that staff failed to provide you with cold water, cold showers, or respite areas. No further action warranted".
114. Plaintiffs Kerns, Elmore, and Andrews filed a timely I-128 pointing out that: "Logic dictates that the 'heat mitigation' that the response states we received is logistically impossible when the unit is so short staffed / over crowded that it must be placed on lockdown. TDCJ's short staff / over crowding issues are compounding the dangers of excessive heat conditions". The I-128 also gave notice "to retain all camera footage from 5-8-22 for further litigation" (To wit, this litigation).
115. On or about 2nd August 2022, J. Back responded to this I-128 and stated: "You were appropriately advised at the Step 1 level". This grievance was not returned until after 24th September 2022.

V.
LEGAL CLAIMS

116. Plaintiffs are residents on the French M. Robertson Unit, operated by the Texas Department of Criminal Justice (TDCJ), and bring this lawsuit on behalf of themselves, and all others similarly situated, and challenge TDCJ's policies and practices of exposing TDCJ residents to extreme heat conditions in their housing and work areas.
117. Excessive heat constitutes a condition that poses a substantial risk of serious harm to the health of all human beings - irrespective of their status in society.
118. Plaintiffs assert that there is copious evidence of the effects that such high temperatures have on the well-being of both healthy individuals and individuals with heat sensitivity.
119. Plaintiffs call into serious question the adequacy of TDCJ's mitigation measures - as applied in practice - in preventing the conditions that cause exposure to extreme heat. The failure of these heat mitigation policies are not isolated, but systemic.
120. Plaintiffs contend that, without climate control, Defendants are failing to protect their residents from the harmful and potentially fatal effects of prolonged exposure to high temperatures.
121. All residents who currently are, or in the future will be, incarcerated at any of the 70 units of TDCJ that are not fully air-conditioned, and thus subjected to TDCJ's policy and practice of failing to regulate high indoor heat index temperatures in the housing and work areas, are exposed to conditions that are cruel and unusual in violation of the Eighth Amendment to the United States Constitution.
122. The extreme conditions constitute wanton and unnecessary infliction of pain and suffering.
123. Society considers the challenged conditions of extreme heat to be so grave that it violates contemporary standards of decency to expose anyone unwillingly to such - even incarcerated persons.

124. Defendants have, with deliberate indifference, exposed all TDCJ residents housed at the 70 units that are not fully air-conditioned, to conditions that pose an unreasonable risk of serious damage to their future health. Defendants are aware of facts from which the inference could be drawn that a substantial risk of serious harm exists. Defendants actions show they have drawn that inference but have failed to respond reasonably by preventing the conditions and installing air-conditioning in all 70 units.
125. Plaintiffs have no plain, adequate, or complete remedy at law to redress the wrongs described herein. Plaintiffs have been and will continue to be irreparably injured by the conduct of the Defendants unless this Court grants declaratory and injunctive relief which Plaintiffs seek.

VI.
PRAYER FOR RELIEF


WHEREFORE, Plaintiffs respectfully pray that this Court enter judgment:


126. Certify this matter as a CLASS ACTION representing all TDCJ residents confined within the 70 TDCJ units that are not fully air-conditioned pursuant to Rule 23(a) and (b)(1)(B) or (b)(2) of the Federal Rules of Civil Procedure.
127. Granting Plaintiffs a DECLARATION that the acts and omissions described herein violate their rights under the Constitution and laws of the United States.
128. Remedy ongoing violation of the law and the Constitution by granting INJUNCTIVE relief on behalf of the Plaintiffs, and the class, and to permanently enjoin Defendants, their agents, employees, successors in office and assigns, to abate the risk of serious harm described above by taking steps including, but not limited to, maintaining a heat index between 65°-85°F inside all TDCJ unit's housing and work areas at all times by installing climate control.
129. Direct Defendants to develop and submit to this Court a plan that will insure that Plaintiffs, and the class, are not subjected to conditions of extreme heat - To wit, temperatures over 85°F.

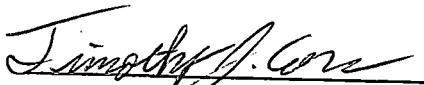
130. Retain jurisdiction over this matter until implementation of this Court's decree has been completed.
131. Issue a RESTRAINING ORDER prohibiting Defendants, or their agents or employees, from any form of retaliation, including the transferring of named Plaintiffs to any other unit (air-conditioned or not) during the course of this action without just cause and prior notice to this Court.
132. Award Plaintiffs' reasonable attorneys' fees and costs of this action pursuant to 42 U.S.C §1988.
133. Plaintiffs seek a jury trial on all issues triable by jury.
134. Award such other and further relief as this Court may deem necessary.


<NLG-PC [SAJZ]>


Respectfully Submitted,

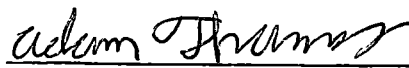

Matthew Baker #2227525
Robertson Unit
12071 F.M. 3522
Abilene, Texas 79601



Robert Andrews #2214727
Robertson Unit
12071 F.M. 3522
Abilene, Texas 79601



Timothy Cone #1688760
Robertson Unit
12071 F.M. 3522
Abilene, Texas 79601



Allen Kerns #2303607
Robertson Unit
12071 F.M. 3522
Abilene, Texas 79601



James Elmore #2273850
Robertson Unit
12071 F.M. 3522
Abilene, Texas 79601


Adam Thomas #2254371
Robertson Unit
12071 F.M. 3522
Abilene, Texas 79601


William Oliver #2290434
Robertson Unit
12071 F.M. 3522
Abilene, Texas 79601


Seth Batterton #2154923
Robertson Unit
12071 F.M. 3522
Abilene, Texas 79601


Dannie Carter #2013581
Robertson Unit
12071 F.M. 3522
Abilene, Texas 79601


Juan Martinez #2017980
Robertson Unit
12071 F.M. 3522
Abilene, Texas 79601


26th October 2022

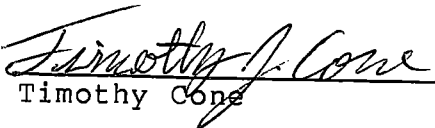
VERIFICATION

I have read the foregoing Complaint and hereby verify that the matters alleged therein are true, except as to matters alleged on information and belief, and, as to those, I believe them to be true. I certify under penalty of perjury that the foregoing is true and correct.

Executed at Abilene, Texas on 26th October 2022


Matthew Baker


Robert Andrews


Timothy Cone


Allen Kerns


James Elmore


Adam Thomas


William Oliver


Seth Batterton


Dannie Carter


Juan Martinez

A T T A C H M E N T

A



Texas Department of Criminal Justice

STEP 1 OFFENDER GRIEVANCE FORM

Baker, Matthew

Offender Name: Matthew Baker TDCJ # 02227525Unit: RB Housing Assignment: 4E-72-TUnit where incident occurred: RB/TDCJ wide

OFFICE USE ONLY

Grievance #: 2022061301Date Received: FEB 08 2022Date Due: 03.20.22Grievance Code: 506-598Investigator ID #: 2553Extension Date: N/ADate Retd to Offender: MAR 24 2022

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Letter to Bobby Lumpkin (Truckmail) When? 1-18-22What was their response? No ResponseWhat action was taken? None

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

I file this grievance on the policy or practice that does not require TDCJ to maintain all housing & working areas between 65°-85°F at its facilities. This lack of climate control (hot & cold) creates inhumane conditions of confinement that violate the 8th Amendment.

Texas is known to experience hot & cold temperatures. Yet despite the dangers that inherently accompany extreme temperatures, TDCJ has done nothing meaningful to ensure humane conditions. This is especially so when prisoners are forced to endure either extreme heat or cold in their cells during rack-up or lockdowns - be it annual shakedown or because of COVID or staff shortages. Things such as cold water, cold shower, respite areas etc. merely mitigate the effects of exposure not prevent the conditions that place prisoners at serious risk to their health & lives. This mitigation is absolutely meaningless when a prisoner is confined to their cell. Fans (no matter the number) simply blow hot air around and do little if anything to actually cool down the cell to humane temperatures. Mitigation efforts by TDCJ substantiates that the agency understands the issue of extreme temperatures and the risk it poses to its prisoners. Failure to meaningfully address that issue by ensuring that temperatures in all housing and working areas are kept between 65°-85°F amounts to deliberate indifference.

Action Requested to resolve your Complaint.

For all housing and working areas to be maintained between 65°-85°F at all times.

Offender Signature: Matt BakerDate: 1-30-22

Grievance Response:

Your complaint has been investigated and reviewed. Investigation revealed TDCJ already has an excessive and extreme temperature conditions, policy in place. Refer to AD-10.64: Excessive and Extreme Temperature Conditions in the TDCJ. All staff are trained on the policy and implement the policy during the hot and cold seasons. At this time, there is no need to change, adapt, or update the current policy in place. No action warranted.

Signature Authority:

AW Breeden AW Breeden

MAR 15 2022

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response.

State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☒ 2. Submission in excess of 1 every 7 days. *
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments. *
- ☐ 5. No documented attempt at informal resolution. *
- ☐ 6. No requested relief is stated. *
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. *
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # _____
- ☐ 10. Illegible/Incomprehensible. *
- ☐ 11. Inappropriate. *

UGI Printed Name/Signature:

C Reyes / C Reyes

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority:

I-127 Back (Revised 11-2010)

OFFICE USE ONLY

Initial Submission UGI Initials: CRGrievance #: 2022058395Screening Criteria Used: #2-599-598Date Recd from Offender: JAN 31 2022Date Returned to Offender: JAN 31 20222nd Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

3rd Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: W10

Date Recd from Offender: _____

Date Returned to Offender: _____

Appendix F

AUG 30 2022

2022061301



Texas Department of Criminal Justice

STEP 2

OFFENDER
GRIEVANCE

Offender Name: Matthew Baker TDCJ # 2227525
 Unit: RB Housing Assignment: 4E-72T
 Unit where incident occurred: RB 4D-5T

OFFICE USE ONLY

Grievance #: 2022061301
 UGI Recd Date: APR 04 2022
 HQ Recd Date: APR 08 2022
 Date Due: 05-14-22
 Grievance Code: 506-598
 Investigator ID#: I1364
 Extension Date: JUN 23 2022

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

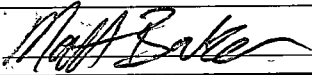
Give reason for appeal (Be Specific). I am dissatisfied with the response at Step 1 because...

I reassert by reference all facts, claims, and arguments presented at Step One

This grievance was on "the policy or practice that does not require TDCJ to maintain all housing and working areas between 65-85°F at its facilities". AD-10.64 states absolutely nothing about maintaining temperatures between 65-85°F. Everything mentioned in that directive is designed to merely mitigate the effects of exposure and not to prevent the conditions that place prisoners at serious risk to their health and lives by extreme temperatures.

I have now exhausted all administrative remedies as required by the PLRA to bring suit.

Offender Signature:

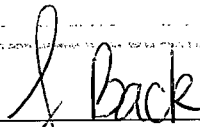


Date: 1st April 2022

Grievance Response:

Your Step 2 grievance has been investigated by this office. You were appropriately advised at the Step 1 level. Furthermore, the agency remains committed to ensuring inmates are safe during temperature extremes. Policy will continue to be adhered to. If you are having a medical issue related to temperature, contact Health Services. If you are having a temperature related concern at your unit of assignment, notify a security supervisor. Assistance will be provided. Based on the information available at this time, no further action is warranted.

Signature Authority:



Date: JUL 22 2022

Returned because: *Resubmit this form when corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.*
- ☐ 3. Originals not submitted.*
- ☐ 4. Inappropriate/Excessive attachments.*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.*

CGO Staff Signature:

OFFICE USE ONLY

Initial Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

2nd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

3rd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____



Texas Department of Criminal Justice

STEP 1 OFFENDER GRIEVANCE FORM

OFFICE USE ONLY

Grievance #: 2022058404
 Date Received: JAN 31 2022
 Date Due: 03-12-22
 Grievance Code: 506-598
 Investigator ID #: 2553
 Extension Date: 04-21-22
 Date Retd to Offender: MAR 24 2022

Offender Name: ANDREWS, ROBERT TDCJ # 02214727
 Unit: 2.B Housing Assignment: 4.E-203
 Unit where incident occurred: 2.B / TDCJ Wide

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Letter to Bobby Lumpkin (Truckmail) When? Jan 18 2022
 What was their response? No Response
 What action was taken? None

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

I file this grievance on the policy or practice that doesn't require TDCJ to maintain all housing & working areas between 65°-85°F at its facilities. This lack of climate control (hot & cold) creates inhumane conditions of confinement that violate the 8th Amendment.

Texas is known to experience hot & cold temperatures. Yet despite the dangers that inherently accompany extreme temperatures, TDCJ has done nothing meaningful to ensure humane conditions. This is especially so when prisoners are forced to endure either heat or cold in their cells during rack-up or lockdowns, be it annual shake-down or because of COVID or staff shortages. Things such as cold water, cold showers, respite areas etc. merely mitigate the effects of exposure not prevent the conditions that place prisoners at serious risk to their health & lives. This mitigation is absolutely meaningless when a prisoner is confined to their cells. Fans (no matter the number) simply blow hot air around & do little, if anything, to actually cool down the cell to humane temperatures. Mitigation efforts by TDCJ substantiates that the agency understands the issue of extreme temperatures & the risk it poses to its prisoners. Failure to meaningfully address that issue by ensuring that temperatures in all housing & working areas are kept between 65°-85°F amounts to deliberate indifference.

Action Requested to resolve your Complaint.

For all housing and working areas to be maintained between 65°-85° at all times

Offender Signature: 

Date: Jan 30 2022

Grievance Response:

Your complaint has been investigated and reviewed. Investigation revealed TDCJ already has an excessive and extreme temperature conditions, policy in place. Refer to AD-10.64: Excessive and Extreme Temperature Conditions in the TDCJ. All staff are trained on the policy and implement the policy during the hot and cold seasons. At this time, there is no need to change, adapt, or update the current policy in place. No action warranted.

Signature Authority:  AW Breiden

Date: MAR 15 2022

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. *
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments. *
- ☐ 5. No documented attempt at informal resolution. *
- ☐ 6. No requested relief is stated. *
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. *
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # _____
- ☐ 10. Illegible/Incomprehensible. *
- ☐ 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

I-127 Back (Revised 11-2010)

OFFICE USE ONLY

Initial Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

2nd Submission

UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

3rd Submission

UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

Appendix F

2022058404

AUG 08 2022



Texas Department of Criminal Justice

STEP 2

OFFENDER GRIEVANCE

Offender Name: Andrews, Robert TDCJ # 2214727
 Unit: Robertson Unit Housing Assignment: 4-E-20B
 Unit where incident occurred: Robertson Unit / TDCJ-wide

OFFICE USE ONLY

Grievance #: 2022058404
 UGI Recd Date: MAR 29 2022
 HQ Recd Date: APR 11 2022
 Date Due: 5.8.22
 Grievance Code: 506-598
 Investigator ID#: I2823
 Extension Date: JUN 17 2022

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be Specific). *I am dissatisfied with the response at Step 1 because...*

I reassert by reference all facts, claims, and arguments presented at Step One.

This grievance was on "the policy or practice that does not require TDCJ to maintain all housing and working areas between 65-85°F at its facilities".

AD-10-64 states absolutely nothing about maintaining temperatures between 65-85°F. Everything mentioned in that directive is designed to merely mitigate the effects of exposure and not to prevent the conditions that place prisoners at serious risk to their health and lives by extreme temperatures.

I have now exhausted all administrative remedies as required by the PLRA to bring suit.

Offender Signature: _____

Date: 27th March 2022

Grievance Response: _____

Your Step 2 grievance and complaint concerning your living conditions have been reviewed. Unit maintenance informed the temperature is set according to policy. Every staff member within the TDCJ is required to be knowledgeable of the information presented in Administrative Directive-10.64 (AD-10.64), Excessive and Extreme Temperature Conditions in the TDCJ to assist in the prevention, recognition, and treatment of heat and/or cold related illnesses and/or injuries. Keep in mind, staff as well as inmates are vulnerable to temperature extremes and the TDCJ makes every effort to provide all with adequate and acceptable working and living conditions; however, units are limited to working with whatever means are available to them. Remember to contact security staff in your area for immediate assistance if you feel you are experiencing any symptoms that may indicate a temperature related illness or injury. No evidence of staff misconduct or policy violations found. No further action is warranted.

Signature Authority: _____

Date: _____

Returned because: *Resubmit this form when corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.*
- ☐ 3. Originals not submitted.*
- ☐ 4. Inappropriate/Excessive attachments.*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.*

CGO Staff Signature: _____

OFFICE USE ONLY**Initial Submission**

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

2nd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

3rd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

Appendix G



Texas Department of Criminal Justice

STEP 1 OFFENDER GRIEVANCE FORM

Cone, Timothy

Offender Name: Timothy Cone TDCJ # 1688760Unit: Robertson Housing Assignment: 4-F-33TUnit where incident occurred: Robertson/TDCJ Wide

OFFICE USE ONLY

Grievance #: 2022058401Date Received: JAN 31 2022Date Due: 03-12-22Grievance Code: 506-598Investigator ID #: 2553Extension Date: 04-21-22Date Retd to Offender: MAR 24 2022

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Letter to Bobby Lumpkin (Truckmail) When? 1-18-2022What was their response? No ResponseWhat action was taken? None

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

I file this grievance on the policy or practice that does not require TDCJ to maintain all housing & working areas between 65°-85°F at its facilities. This lack of climate control (hot & cold) creates inhumane conditions of confinement that violate the 8th Amendment.

Texas is known to experience hot and cold temperatures. Yet despite the dangers that inherently accompany extreme temperatures, TDCJ has done nothing meaningful to ensure humane conditions. This is especially so when prisoners are forced to endure either extreme heat or cold in their cells during rack-up or lockdowns - be it annual shakedown or because of Covid or staff shortages. Things such as cold water, cold showers, respite area etc merely mitigate the effects of exposure not prevent the conditions that place prisoners at serious risk to their health & lives. This mitigation is absolutely meaningless when a prisoner is confined to their cells. Fans (no matter the number) simply blow hot air around and do little, if anything, to actually cool down the cell to humane temperatures. Mitigation efforts by TDCJ substantiates that the agency understands the issue of extreme temperatures and the risks to its prisoners. Failure to meaningfully address that issue by ensuring that temperatures in all housing and working areas are kept between 65°-85°F amounts to deliberate indifference.

Action Requested to resolve your Complaint.

For all housing and working areas to be maintained between 65°-85°F at all times.

Offender Signature: [Signature]

Date: 1-30-22

Grievance Response:

Your complaint has been investigated and reviewed. Investigation revealed TDCJ already has an excessive and extreme temperature conditions, policy in place. Refer to AD-10.64: Excessive and Extreme Temperature Conditions in the TDCJ. All staff are trained on the policy and implement the policy during the hot and cold seasons. At this time, there is no need to change, adapt, or update the current policy in place. No action warranted.

Signature Authority: [Signature] AW Breeden

MAR 15 2022
Date:

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. *
- ☒ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments. *
- ☐ 5. No documented attempt at informal resolution. *
- ☐ 6. No requested relief is stated. *
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. *
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # _____
- ☐ 10. Illegible/Incomprehensible. *
- ☐ 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Signature of the offender's medical authority:

Medical Signature Authority: _____

I-127 Back (Revised 11-2010)

Date: OFFICE USE ONLY

Initial Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

2nd Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

3rd Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

Appendix F

AUG 30 2022



2022058401

Texas Department of Criminal Justice
STEP 2 **OFFENDER**
GRIEVANCE

Offender Name: Cone, Timothy TDCJ # 1688760
 Unit: Robertson Unit Housing Assignment: 4-F-33T
 Unit where incident occurred: Robertson Unit/TDCJ-wide

OFFICE USE ONLY

Grievance #: 2022058401
 UGI Recd Date: APR 04 2022
 HQ Recd Date: APR 08 2022
 Date Due: 05.14.22
 Grievance Code: 506-598
 Investigator ID#: I1364
 Extension Date: JUN 23 2022

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be Specific). I am dissatisfied with the response at Step 1 because...

I reassert by reference all facts, claims, and arguments presented at Step one.

This grievance was on "the policy or practice that does not require TDCJ to maintain all housing and working areas between 65-85°F at its facilities"
AD-10.64 states absolutely nothing about maintaining temperatures between 65-85°F. Everything mentioned in that directive is designed to merely mitigate the effects of exposure and not to prevent the conditions that place prisoners at serious risk to their health and lives by extreme temperatures.

I have now exhausted all administrative remedies as required by the PLRA to bring suit.

Offender Signature: _____

Date: 1st April 2022

Grievance Response: _____

Your Step 2 grievance has been investigated by this office. You were appropriately advised at the Step 1 level. Furthermore, the agency remains committed to ensuring inmates are safe during temperature extremes. Policy will continue to be adhered to. If you are having a medical issue related to temperature, contact Health Services. If you are having a temperature related concern at your unit of assignment, notify a security supervisor. Assistance will be provided. Based on the information available at this time, no further action is warranted.

Signature Authority: _____

Date: _____

JUL 22 2022

Returned because: *Resubmit this form when corrections are made.*

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.*
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments.*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.*

CGO Staff Signature: _____

OFFICE USE ONLY**Initial Submission****CGO Initials:** _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

2nd Submission**CGO Initials:** _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

3rd Submission**CGO Initials:** _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

I-128 Back (Revised 11-2010)

Appendix G



Texas Department of Criminal Justice

STEP 1 OFFENDER GRIEVANCE FORM

Thomas, Adam

Offender Name: Adam Thomas TDCJ # 2254371

Unit: RB Housing Assignment: 4-F-8B

Unit where incident occurred: RB / TDCJ wide

OFFICE USE ONLY

Grievance #: 2022058411
 Date Received: JAN 31 2022
 Date Due: 03-12-22
 Grievance Code: 506-598
 Investigator ID #: 2553
 Extension Date: 04-21-22
 Date Retd to Offender: MAR 24 2022

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Letter to Bobby Lumpkin (Truckmail) When? Jan 18 2022

What was their response? No Response

What action was taken? None

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

I file this grievance on the policy or practice that does not require TDCJ to maintain all housing and working areas between 65°-85°F at its facilities. This lack of climate control (hot & cold) creates inhumane conditions of confinement that violate the 8th Amendment.

Texas is known to experience hot & cold temperatures. Yet despite the dangers that inherently accompany extreme temperatures, TDCJ has done nothing meaningful to ensure humane conditions. This is especially so when prisoners are forced to endure either heat or cold in their cells during rack-up or lockdowns - be it annual shakedown or because of Covid or staff shortages. Things such as cold water cold showers, respite areas etc. merely mitigate the effects of exposure not prevent the conditions that place prisoners at serious risk to their health and lives. This mitigation is absolutely meaningless when a prisoner is confined to their cells. Fans (no matter the number) simply blow hot air around and do little, if anything, to actually cool down the cell to humane temperatures. Mitigation efforts by TDCJ substantiates that the agency understands the issue of extreme temperatures and the risk it poses to its prisoners. Failure to meaningfully address that issue by ensuring that temperatures in all housing and working areas are kept between 65°-85°F amounts to deliberate indifference.

Action Requested to resolve your Complaint.

For all housing & working areas to be maintained between 65°-85°F at all times.

Offender Signature: *William F. Brown*

Date: *Jan 30 2022*

Grievance Response:

Your complaint has been investigated and reviewed. Investigation revealed TDCJ already has an excessive and extreme temperature conditions, policy in place. Refer to AD-10.64: Excessive and Extreme Temperature Conditions in the TDCJ. All staff are trained on the policy and implement the policy during the hot and cold seasons. At this time, there is no need to change, adapt, or update the current policy in place. No action warranted.

Signature Authority: *Deeigh Breeden*

AW Breeden

MAR 15 2022
Date:

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: **Resubmit this form when the corrections are made.*

- ☐ 1. Grievable time period has expired.
- ☒ 2. Submission in excess of 1 every 7 days. *
- ☒ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments. *
- ☐ 5. No documented attempt at informal resolution. *
- ☐ 6. No requested relief is stated. *
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. *
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # _____
- ☐ 10. Illegible/Incomprehensible. *
- ☐ 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority:

Medical Signature Authority: _____

I-127 Back (Revised 11-2010)

OFFICE USE ONLY	
Initial Submission	UGI Initials: _____
Grievance #: _____	
Screening Criteria Used: _____	
Date Recd from Offender: _____	
Date Returned to Offender: _____	
2nd Submission	UGI Initials: _____
Grievance #: _____	
Screening Criteria Used: _____	
Date Recd from Offender: _____	
Date Returned to Offender: _____	
3rd Submission	UGI Initials: _____
Grievance #: _____	
Screening Criteria Used: <i>None</i>	
Date Recd from Offender: _____	
Date Returned to Offender: _____	

Appendix F

AUG 30 2022

2022058411



Texas Department of Criminal Justice
STEP 2 **OFFENDER**
GRIEVANCE

Offender Name: Thomas, Adam TDCJ # 2254371
 Unit: Robertson Unit Housing Assignment: 12B-73 ~~4-F-88~~
 Unit where incident occurred: Robertson Unit / TDCJ-wide

OFFICE USE ONLY

Grievance #: 2022058411
 UGI Recd Date: APR 01 2022
 HQ Recd Date: APR 07 2022
 Date Due: 05-11-22
 Grievance Code: 506-598
 Investigator ID#: I2855
 Extension Date: JUN 20 2022

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be Specific). I am dissatisfied with the response at Step 1 because...

I reassert by reference all facts, claims and arguments presented at Step One.

This grievance was on "the policy or practice that does not require TDCJ to maintain all housing and working areas between 65-85°F at its facilities".

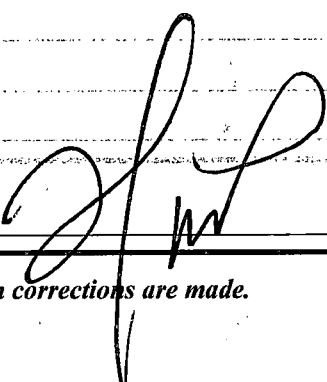
AD-10.64 states absolutely nothing about maintaining temperatures between 65-85°F. Everything mentioned in that directive is designed to merely mitigate the effects of exposure and not to prevent the conditions that place prisoners at serious risk to their health and lives by extreme temperatures.

I have now exhausted all administrative remedies as required by the PLRA to bring suit.

Offender Signature: Date: 30th March 2022

Grievance Response:

An investigation has been conducted into your complaint. The answer received on your Step-1 was appropriate, please refer the unit's original response. Furthermore, unit staff is ensuring all standards are being met and remain in compliance with the Administrative Directive 10.64, governing temperature conditions in TDCJ. No further action is required by this office.



Signature Authority:

Date:

JUL 27 2022

Returned because: *Resubmit this form when corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.*
- ☐ 3. Originals not submitted.*
- ☐ 4. Inappropriate/Excessive attachments.*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.*

CGO Staff Signature: _____

Signature Authority: _____

Signature Authority: _____

Signature Authority: _____

Returned because: *Resubmit this form when corrections are made.

OFFICE USE ONLY

Initial Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

2nd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

3rd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

I-128 Back (Revised 11-2010)

Appendix G



Texas Department of Criminal Justice

STEP 1 OFFENDER GRIEVANCE FORM

4D-51B

Offender Name: Oliver William TDCJ # 2240434Unit: RB Housing Assignment: ~~4E~~ ~~OFF~~ TUnit where incident occurred: RB / TDCJ Wide

OFFICE USE ONLY

Grievance #: 2022058380Date Received: JAN 31 2022Date Due: 03 12 22Grievance Code: 506-598Investigator ID #: 2553Extension Date: 04-21-22Date Retd to Offender: MAR 24 2022

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Letter to Bobby Lumpkin (Truckmail) When? Jan 18 2022What was their response? No ResponseWhat action was taken? None

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

I file this grievance on the policy or practice that doesn't require TDCJ to maintain all housing & working areas between 65°-85°F at its facilities. This lack of climate control (hot & cold) creates inhumane conditions of confinement that violate the 8th Amendment.

Texas is known to experience hot & cold temperatures. Yet despite the dangers that inherently accompany extreme temperatures, TDCJ has done nothing meaningful to ensure humane conditions. This is especially so when prisoners are forced to endure either heat or cold in their cells during rack-up or lockdowns - be it annual shakedown or because of COVID or staff shortages. Things such as cold water, cold showers, respite areas etc. merely mitigate the effects of exposure not prevent the conditions that place prisoners at serious risk to their health & lives. This mitigation is absolutely meaningless when a prisoner is confined to their cells. Fans (no matter the number) simply blow hot air around & do little, if anything, to actually cool down the cell to humane temperatures. Mitigation efforts by TDCJ substantiates that the agency understands the issue of extreme temperatures & the risk it poses to its prisoners. Failure to meaningfully address that issue by ensuring the temperatures in all housing & working areas are kept between 65°-85°F amounts to deliberate indifference.

Action Requested to resolve your Complaint.

For all housing & working areas to be maintained between 65°-83°F at all times.

Offender Signature: [Signature]Date: Jan 30 2022

Grievance Response:

Your complaint has been investigated and reviewed. Investigation revealed TDCJ already has an excessive and extreme temperature conditions, policy in place. Refer to AD-10.64: Excessive and Extreme Temperature Conditions in the TDCJ. All staff are trained on the policy and implement the policy during the hot and cold seasons. At this time, there is no need to change, adapt, or update the current policy in place. No action warranted.

Signature Authority: [Signature]

AW Breeden

MAR 15 2022
Date:

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form in item 1.

Returned because: *Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☒ 2. Submission in excess of 1 every 7 days. *
- ☒ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments. *
- ☐ 5. No documented attempt at informal resolution. *
- ☐ 6. No requested relief is stated. *
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. *
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # _____
- ☐ 10. Illegible/Incomprehensible. *
- ☐ 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: [Signature]

I-127 Back (Revised 11-2010)

Date: OFFICE USE ONLY	
Initial Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____
2 nd Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____
3 rd Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____

Appendix F

AUG 30 2022

AUG 30 2022

2022058380



Texas Department of Criminal Justice
STEP 2 **OFFENDER**
GRIEVANCE

Offender Name: Oliver, William TDCJ #: 2290434
Unit: Robertson Unit Housing Assignment: 4-~~B-17~~D-518
Unit where incident occurred: Robertson Unit / TDCJ-wide

OFFICE USE ONLY

Grievance #: 2022058380
UGI Recd Date: APR 04 2022
HQ Recd Date: APR 08 2022
Date Due: 08.14.22
Grievance Code: 506-598
Investigator ID#: I1364
Extension Date: JUN 23 2022

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be Specific): I am dissatisfied with the response at Step 1 because...

I reassert by reference all facts, claims and arguments presented at Step One.

This grievance was on "the policy or practice that does not require TDCJ to maintain all housing and working areas between 65°-85°F at its facilities". AD-10.64 states absolutely nothing about maintaining temperatures between 65-85°F. Everything mentioned in that directive is designed to merely mitigate the effects of exposure and not to prevent the conditions that place prisoners at serious risk to their health and lives by extreme temperatures.

I have now exhausted all administrative remedies as required by the PLRA to bring suit.

Offender Signature: [Signature]Date: 1st April 2022

Grievance Response:

Your Step 2 grievance has been investigated by this office. You were appropriately advised at the Step 1 level. Furthermore, the agency remains committed to ensuring inmates are safe during temperature extremes. Policy will continue to be adhered to. If you are having a medical issue related to temperature, contact Health Services. If you are having a temperature related concern at your unit of assignment, notify a security supervisor. Assistance will be provided. Based on the information available at this time, no further action is warranted.

Offender Signature: [Signature]Grievance Response: [Signature]Signature Authority: [Signature]Date: JUL 22 2022Returned because: **Resubmit this form when corrections are made.*

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.*
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments.*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.*

CGO Staff Signature: _____

Offender Signature: _____

Grievance Response: _____

Signature Authority: _____

Returned because: **Resubmit this form when corrections are made.*

- ☐ 1. Grievable time period has expired.

I-128 Back (Revised 11-2010)

CGO Staff Signature: _____

Offender Signature: _____

OFFICE USE ONLY**Initial Submission****CGO Initials:** _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

2nd Submission**CGO Initials:** _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

3rd Submission**CGO Initials:** _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted**Appendix G**



Texas Department of Criminal Justice

STEP 1

OFFENDER GRIEVANCE FORM

Offender Name: Batterton, Seth TDCJ # 02154923
 Unit: RB Housing Assignment: 4E67T
 Unit where incident occurred: RB/TDCJ wide

OFFICE USE ONLY

Grievance #: 2022058385
 Date Received: JAN 31 2022
 Date Due: 03-12-22
 Grievance Code: 506-598
 Investigator ID #: 2553
 Extension Date: 04-21-22
 Date Retd to Offender: MAR 24 2022

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Letter to Bobby Lumpkin (Truck mail) When? 1-18-2022

What was their response? No response

What action was taken? None

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

I file this grievance on the policy or practice that does not require TDCJ to maintain all housing and working areas between 65°-85°F at its facilities. This lack of climate control (hot/cold) creates inhumane conditions of confinement that violate the 8th Amendment.

Texas is known to experience hot and cold temperatures. Yet despite the dangers that inherently accompany extreme temperatures, TDCJ has done nothing meaningful to ensure humane conditions. This is especially so when prisoners are forced to endure either extreme heat or cold in their cells during rack-up or lockdowns - be it annual shakedown or because of COVID or staff shortages. Things such as cold water, cold showers, respite areas etc. merely mitigate the effects of exposure not prevent the conditions that place prisoners at serious risk to their health and lives. This mitigation is absolutely meaningless when a prisoner is confined in their cell. Fans (no matter how many) simply blow hot air around and do little if anything, to actually cool down the cell to humane temperatures. Mitigation efforts by TDCJ substantiates that the agency understands the issue of extreme temperatures and the risk it poses to the prisoners. Failure to meaningfully address that issue by ensuring that temperatures in all housing and working areas are kept between 65°-85°F accounts to deliberate indifference.

Action Requested to resolve your Complaint.

For all housing & working areas to be maintained between 65°-85°F at all times.

Offender Signature: *Seth Battered*

Date: *1-30-22*

Grievance Response:

Your complaint has been investigated and reviewed. Investigation revealed TDCJ already has an excessive and extreme temperature conditions, policy in place. Refer to AD-10.6 I: Excessive and Extreme Temperature Conditions in the TDCJ. All staff are trained on the policy and implement the policy during the hot and cold seasons. At this time, there is no need to change, adapt, or update the current policy in place. No action warranted.

Signature Authority:

Carleigh Breeden AW Breeder

Date: *MAR 15 2022*

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. *
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments: *
- ☐ 5. No documented attempt at informal resolution. *
- ☐ 6. No requested relief is stated. *
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. *
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # _____
- ☐ 10. Illegible/Incomprehensible. *
- ☐ 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

I-127 Back (Revised 11-2010)

OFFICE USE ONLY

Initial Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

2nd Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

3rd Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____



Texas Department of Criminal Justice
STEP 2 OFFENDER
GRIEVANCE

Offender Name: Batterton, Seth TDCJ# 02154923
Unit: RB Housing Assignment: 4E677
Unit where incident occurred: RB

OFFICE USE ONLY

Grievance #: 2022058385
UGI Recd Date: APR 05 2022
HQ Recd Date: APR 11 2022
Date Due: 5.15.22
Grievance Code: 506-598
Investigator ID#: 11364
Extension Date: JUN 24 2022

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be Specific). I am dissatisfied with the response at Step 1 because...

I reassert by reference all facts, claims and arguments presented at Step One.

This grievance was on "the policy or practice that does not require TDCJ to maintain all housing and work areas between 65°-85° F at its facilities".

AD-10.64 states absolutely nothing about maintaining temperatures between 65°-85° F. Everything mentioned in that directive is designed to merely mitigate the effects of exposure and not to prevent the conditions that place prisoners at serious risk to their health and lives by extreme temperatures.

I have now exhausted all administrative remedies as required by the PLRA to bring suit.

Offender Signature: Seth ButtittaDate: 4th April 2022

Grievance Response:

Your Step 2 grievance has been investigated by this office. You were appropriately advised at the Step 1 level. Furthermore, the agency remains committed to ensuring inmates are safe during temperature extremes. Policy will continue to be adhered to. If you are having a medical issue related to temperature, contact Health Services. If you are having a temperature related concern at your unit of assignment, notify a security supervisor. Assistance will be provided. Based on the information available at this time, no further action is warranted.

Offender Signature:

Signature Authority:

Signature Authority:

Date:

JUL 2 2 2022

Returned because: **Resubmit this form when corrections are made.*

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.*
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments.*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.*

CGO Staff Signature:

Offender Signature:

Grievance Response:

Signature Authority:

Returned because: **Resubmit this form when corrections are made.*

1. Grievable time period has expired.

I-128 Back (Revised 11-2010)

2. Originals not submitted. *

OFFICE USE ONLY

Initial Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

2nd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

3rd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

Appendix G



Texas Department of Criminal Justice

STEP 1 OFFENDER GRIEVANCE FORM

Carter, Dannie

4F-11T

Offender Name: Dannie Carter TDCJ # 2013581Unit: RB Housing Assignment: ~~4F-11T~~Unit where incident occurred: RB/TDCJ wide

OFFICE USE ONLY

Grievance #: 2022058382
 Date Received: JAN 31 2022
 Date Due: 03-12-22
 Grievance Code: 506-598
 Investigator ID #: 2553
 Extension Date: 04-21-22
 Date Retd to Offender: MAR 24 2022

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Letter to Bobby Lumpkin (Truckmail) When? Jan 18 2022What was their response? No responseWhat action was taken? None

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

I file this grievance on the policy or practice that does not require TDCJ to maintain all housing & working areas between 65°-85°F at its facilities. This lack of climate control (hot & cold) creates inhumane conditions of confinement that violate the 8th Amendment.

Texas is known to experience hot & cold temperatures. Yet despite the dangers that inherently accompany extreme temperatures, TDCJ has done nothing meaningful to ensure humane conditions. This is especially so when prisoners are forced to endure either heat or cold in their cells during rack-up or lockdowns - be it annual shakedown or because of COVID or staff shortages. Things such as cold water, cold showers, respite areas etc. merely mitigate the effects of exposure not prevent the conditions that place prisoners at serious risk to their health & lives. This mitigation is absolutely meaningless when a prisoner is confined to their cells. Fans (no matter how many) simply blow hot air around & do little, if anything, to actually cool down the cell to humane temperatures. Mitigation efforts by TDCJ substantiates that the agency understands the issue of extreme temperatures and the risk it poses to its prisoners. Failure to meaningfully address that issue by ensuring that temperatures in all housing & working areas are kept between 65°-85°F amounts to deliberate indifference.

Action Requested to resolve your Complaint.

For all housing working areas to be maintained between 65°-85°F at all times.

Offender Signature: Dammie D. Cate

Date: 11-30-22

Grievance Response:

Your complaint has been investigated and reviewed. Investigation revealed TDCJ already has an excessive and extreme temperature conditions policy in place. Refer to AD-10.64: Excessive and Extreme Temperature Conditions in the TDCJ. All staff are trained on the policy and implement the policy during the hot and cold seasons. At this time, there is no need to change, adapt, or update the current policy in place. No action warranted.

Signature Authority: Aw Breeder Aw Breeder

Date: MAR 15 2022

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made:

☐ 1. Grievable time period has expired.

☐ 2. Submission in excess of 1 every 7 days. *

☐ 3. Originals not submitted. *

☐ 4. Inappropriate/Excessive attachments. *

☐ 5. No documented attempt at informal resolution. *

☐ 6. No requested relief is stated. *

☐ 7. Malicious use of vulgar, indecent, or physically threatening language. *

☐ 8. The issue presented is not grievable.

☐ 9. Redundant, Refer to grievance # _____

☐ 10. Illegible/Incomprehensible. *

☐ 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Approved by the Unit Grievance Investigator.

Medical Signature Authority: _____

I-127 Back (Revised 11-2010)

Date: OFFICE USE ONLY	
Initial Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____
2nd Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____
3rd Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____

Appendix F

AUG 08 2022

2022058382



Texas Department of Criminal Justice
STEP 2 **OFFENDER**
GRIEVANCE

OFFICE USE ONLY

Grievance #: 2022058382
 UGI Recd Date: APR 19 2022
 HQ Recd Date: APR 22 2022
 Date Due: 05.19.22
 Grievance Code: 500-598/599
 Investigator ID#: _____
 Extension Date: _____

Offender Name: Carter, Dannie TDCJ# 2013581
 Unit: Robertson Unit Housing Assignment: 4-F-~~507~~11T
 Unit where incident occurred: Robertson Unit / TDCJ-wide

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be Specific). I am dissatisfied with the response at Step 1 because...

I reassert by reference all facts, claims and arguments presented at Step one.

USDA Dietary Guidelines are NOT being adhered to and such deprivation of wholesome and nutritious meals of sufficient variety is a violation of the 8th Amendment.

The truth of the matter is this: TDCJ as a whole is being impacted by the financial fallout of the COVID pandemic, inflation and supply chain issues, and to compensate TDCJ has cut the amount and type of food being given to sustain its prisoners. This is why our meals are being watered down and fail to be wholesome, nutritious or of sufficient variety. This is a deliberate act calculated to save TDCJ money and is indifferent to the health and welfare of Texas prisoners.

I have now exhausted all administrative remedies as required by the PLRA to bring suit.

Offender Signature: Dammi D. CatDate: 17th April 2022

Grievance Response:

Signature Authority: _____

Date: _____

Returned because: **Resubmit this form when corrections are made.*

- ☒ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.*
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments.*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.*

CGO Staff Signature: _____

f back**OFFICE USE ONLY****Initial Submission**CGO Initials: fbDate UGI Recd: 4/19Date CGO Recd: 4/22(check one) ☒ Screened ☐ Improperly SubmittedComments: Time

Date Returned to Offender: _____

2nd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

3rd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____



Texas Department of Criminal Justice

STEP 1 OFFENDER GRIEVANCE FORM

Martinez, Juan

Offender Name: Juan Martinez TDCJ # 2017980
 Unit: RB Housing Assignment: 4-E-39B
 Unit where incident occurred: RB/TDCJ Wide

OFFICE USE ONLY

Grievance #: 2022058376
 Date Received: JAN 31 2022
 Date Due: 03-12-22
 Grievance Code: 506-598
 Investigator ID #: 2553
 Extension Date: 04-21-22
 Date Retd to Offender: MAR 24 2022

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Letter to Bobby Lumpkin (Truckmail) When? 1-18-2022

What was their response? No response

What action was taken? None

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

I file this grievance on the policy or practice that does not require TDCJ to maintain all housing & working areas between 65°-85°F at its facilities. This lack of climate control (hot & cold) create inhumane conditions of confinement that violate the 8th Amendment.

Texas is known to experience hot & cold temperatures. Yet despite the dangers that inherently accompany extreme temperatures, TDCJ has done nothing meaningful to ensure humane conditions. This is especially so when prisoners are forced to endure either extreme heat or cold in their cells during rack-up or lockdowns - be it annual shakedown or because of COVID or staff shortages. Things such as cold water, cold showers, respite areas etc. merely mitigate the effects of exposure, not prevent the conditions that place prisoners at serious risk to their health and lives. This mitigation is absolutely meaningless when a prisoner is confined to their cell. Fans (no matter the number) simply blow hot air around and do little, if anything, to actually cool down the cell to humane temperatures. Mitigation efforts by TDCJ substantiates that the agency understands the issue of extreme temperatures and the risk it poses to its prisoners. Failure to meaningfully address that issue by ensuring that temperatures in all housing and working areas are kept between 65°-85°F amounts to deliberate indifference.

Action Requested to resolve your Complaint.

For all housing and working areas to be maintained between 65°-85°F at all times.

Offender Signature: [Signature]Date: 1-30-22

Grievance Response:

Your complaint has been investigated and reviewed. Investigation revealed TDCJ already has an excessive and extreme temperature conditions, policy in place. Refer to AD-10.64: Excessive and Extreme Temperature Conditions in the TDCJ. All staff are trained on the policy and implement the policy during the hot and cold seasons. At this time, there is no need to change, adapt, or update the current policy in place. No action warranted.

Signature Authority: [Signature] AW BreedenDate: MAR 15 2022

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. *
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments. *
- ☐ 5. No documented attempt at informal resolution. *
- ☐ 6. No requested relief is stated. *
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. *
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # _____
- ☐ 10. Illegible/Incomprehensible. *
- ☐ 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

State the reason for appeal on the Step 2 Form.

Medical Signature Authority: _____

I-127 Back (Revised 11-2010)

☐ 1. Grievable time period has expired.☐ 2. Submission in excess of 1 every 7 days. *☐ 3. Originals not submitted. *Date: **OFFICE USE ONLY**

Initial Submission UGI Initials: _____

Grievance #:

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

2nd Submission

UGI Initials: _____

Grievance #:

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

3rd Submission

UGI Initials: _____

Grievance #:

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

Date: **OFFICE USE ONLY**

Appendix F

AUG 08 2022



Texas Department of Criminal Justice

STEP 2

OFFENDER GRIEVANCE

Offender Name: Martinez, Juan TDCJ # 2017980
 Unit: Robertson Unit Housing Assignment: 4-E-39B
 Unit where incident occurred: Robertson Unit / TDCJ-wide

OFFICE USE ONLY

Grievance #: 2022058376
 UGI Recd Date: MAR 29 2022
 HQ Recd Date: APR 11 2022
 Date Due: 5.8.22
 Grievance Code: 506-598
 Investigator ID#: I2823
 Extension Date: JUN 17 2022

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

~~Give reason for appeal (Be Specific).~~ I am dissatisfied with the decision of Step 1 because...

I reassert by reference all facts, claims and arguments presented at Step One.

This grievance was on "the policy or practice that does not require TDCJ to maintain all housing and working areas between 65-85°F at its facilities."

AD-10.64 states absolutely nothing about maintaining temperatures between 65-85°F. Everything mentioned in that directive is designed to merely mitigate the effects of exposure and not to prevent the conditions that place prisoners at serious risk to their health and lives by extreme temperatures.

I have now exhausted all administrative remedies as required by the PLRA to bring suit.

Offender Signature: [Signature]Date: 27th March 2022

Grievance Response:

Your Step 2 grievance and complaint concerning your living conditions have been reviewed. Unit maintenance informed the temperature is set according to policy. Every staff member within the TDCJ is required to be knowledgeable of the information presented in Administrative Directive-10.64 (AD-10.64), Excessive and Extreme Temperature Conditions in the TDCJ to assist in the prevention, recognition, and treatment of heat and/or cold related illnesses and/or injuries. Keep in mind, staff as well as inmates are vulnerable to temperature extremes and the TDCJ makes every effort to provide all with adequate and acceptable working and living conditions, however, units are limited to working with whatever means are available to them. Remember to contact security staff in your area for immediate assistance if you feel you are experiencing any symptoms that may indicate a temperature related illness or injury. No evidence of staff misconduct or policy violations found. No further action is warranted.

Signature:

Signature Authority:

Signature Authority:

[Signature]
 Date: MAY 24 2022
 H. M. Pederson

Returned because: *Resubmit this form when corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.*
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments.*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.*

CGO Staff Signature: _____

OFFICE USE ONLY

Initial Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

2nd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

3rd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

A T T A C H M E N T

B



Texas Department of Criminal Justice

STEP 1**OFFENDER
GRIEVANCE FORM**

4E-203

Offender Name: ANDREW B. ROBERT TDCJ # 2214727Unit: R.B. Housing Assignment: 47 LOSUnit where incident occurred: ROBERTSON UNIT**OFFICE USE ONLY**Grievance #: 2022098083Date Received: MAY 11 2022Date Due: 06-20-22Grievance Code: 506-598Investigator ID #: I2133

Extension Date: _____

Date Retd to Offender: JUN 11 2022

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Officer on Duty When? 5-8-2022What was their response? "Rack up"What action was taken? NONE

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

On 5-8-22 the heat index temperature exceeded 106°F. TDCJ showed deliberate indifference towards my safety by placing the unit on lockdown at noon and confining prisoners to their cells during the hottest part of the day. We were not provided cold water, cold showers, or access to respite areas. This is a common practice of the T.D.C.J.

Action Requested to resolve your Complaint.

Do not confine prisoners to cell during excessive heat.

Offender Signature: _____

Date: 5-9-22

Grievance Response:

Your grievance has been reviewed and investigated. Inmates were given the opportunity to come out of their cells for cold water and cold showers. Inmates were observed using the regular showers and cold showers while others were in the dayroom. Respite areas are available upon request. There was no evidence found to support your allegation that staff failed to provide you with cold water, cold showers, or respite areas. No further action warranted.

WARDEN J. COZBY

Signature Authority: _____

Date: _____

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. *
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments. *
- ☐ 5. No documented attempt at informal resolution. *
- ☐ 6. No requested relief is stated. *
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. *
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # _____
- ☐ 10. Illegible/Incomprehensible. *
- ☐ 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

I-127 Back (Revised 11-2010)

OFFICE USE ONLY

Initial Submission UGI Initials: _____
 Grievance #: _____
 Screening Criteria Used: _____
 Date Recd from Offender: _____
 Date Returned to Offender: _____
 2nd Submission UGI Initials: _____
 Grievance #: _____
 Screening Criteria Used: _____
 Date Recd from Offender: _____
 Date Returned to Offender: _____
 3rd Submission UGI Initials: _____
 Grievance #: _____
 Screening Criteria Used: _____
 Date Recd from Offender: _____
 Date returned to Offender: _____

SEP 24 2022



Texas Department of Criminal Justice

STEP 2

OFFENDER
GRIEVANCE FORM

Offender Name: ANDREWS, ROBERT TDCJ # 2214727
 Unit: R-13 Housing Assignment: 4-E-203
 Unit where incident occurred: R-13

OFFICE USE ONLY

Grievance #: 2022098083
 UGI Recd Date: JUN 17 2022
 HQ Recd Date: JUN 27 2022
 Date Due: 7-27-22
 Grievance Code: 506-598
 Investigator ID#: I1364
 Extension Date: SEP 05 2022


You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be Specific). I am dissatisfied with the response at Step 1 because...

The response at Step One does not address the fact that it is deliberate indifference to our health and safety to lock us in our cells when the heat index exceeds 106°F. This is an ongoing issue.

Furthermore, there is no evidence to support the response at Step One. Logic dictates that the 'heat mitigation' that the response states we received is logistically impossible when the unit is so short staffed that it must be placed on lockdown. TDCJ's short staff/overcrowding issues are compounding the dangers of excessive heat conditions.

NOTICE: Please retain all camera footage from 5-8-22 for further litigation.

Offender Signature: 

Date: 6.15.22

Grievance Response:

Your Step 2 grievance has been investigated by this office. You were appropriately advised at the Step 1 level. The safety and security of the inmate population is priority. Adherence to AD-10.64 "Excessive and Extreme Temperatures in the TDCJ" will continue to be monitored to ensure compliance. Based on the evidence available at this time, no further action is warranted.

Signature Authority:  

Date: AUG 02 2022

Returned because: *Resubmit this form when corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.*
- ☐ 3. Originals not submitted.*
- ☐ 4. Inappropriate/Excessive attachments.*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.*

CGO Staff Signature: _____

OFFICE USE ONLY**Initial Submission**

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

2nd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

3rd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____



Texas Department of Criminal Justice

STEP 1**OFFENDER
GRIEVANCE FORM**

Kerns, Allen

Offender Name: Allen Kerns TDCJ # 2303607Unit: Robertson Housing Assignment: 4E 34BUnit where incident occurred: Robertson**OFFICE USE ONLY**Grievance #: 2022097994Date Received: MAY 11 2022Date Due: 06-20-22Grievance Code: 506-598Investigator ID #: I 2133Extension Date: JUN 1 1 2022Date Retd to Offender:

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

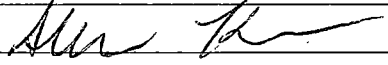
Who did you talk to (name, title)? officer on duty When? 5-8-22What was their response? "Rack up"What action was taken? None

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

On 5-8-22 the heat index temperature exceeded 106°F. TDCJ showed
deliberate indifference towards my safety by placing the unit on lockdown
at 12-noon and confining prisoners to their cells during the hottest part of the
day. we were not provided cold water, showers, or access to respite areas.
This is a common practice of the TDCJ.

Action Requested to resolve your Complaint.

Do not confine prisoners to cells during excessive heat

Offender Signature: 

Date: 5-9-22

Grievance Response:

Your grievance has been reviewed and investigated. Inmates were given the opportunity to come out of their cells for cold water and cold showers. Inmates were observed using the regular showers and cold showers while others were in the dayroom. Respite areas are available upon request. There was no evidence found to support your allegation that staff failed to provide you with cold water, cold showers, or respite areas. No further action warranted.

WARDEN J. COZBY

Signature Authority: 

Date: 6/10/22

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. *
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments. *
- ☐ 5. No documented attempt at informal resolution. *
- ☐ 6. No requested relief is stated. *
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. *
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # _____
- ☐ 10. Illegible/Incomprehensible. *
- ☐ 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

I-127 Back (Revised 11-2010)

OFFICE USE ONLY

Initial Submission	UGI Initials: _____
Grievance #: _____	
Screening Criteria Used: _____	
Date Recd from Offender: _____	
Date Returned to Offender: _____	
2nd Submission	UGI Initials: _____
Grievance #: _____	
Screening Criteria Used: _____	
Date Recd from Offender: _____	
Date Returned to Offender: _____	
3rd Submission	UGI Initials: _____
Grievance #: _____	
Screening Criteria Used: _____	
Date Recd from Offender: _____	
Date Returned to Offender: _____	



Texas Department of Criminal Justice
STEP 2 **OFFENDER**
GRIEVANCE

Offender Name: Allen Kerns TDCJ # 2303607
Unit: RB Housing Assignment: 4E34B
Unit where incident occurred: RB

OFFICE USE ONLY

Grievance #: 2022097994
UGI Recd Date: JUN 16 2022
HQ Recd Date: JUN 23 2022
Date Due: 7-26-22
Grievance Code: 506-598
Investigator ID#: I1364
Extension Date: SEP 04 2022

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be Specific). I am dissatisfied with the response at Step 1 because...

The response at Step One does not address the fact that it is deliberate indifference to our health and safety to lock us in our cells when the heat index exceeds 106°F. This is an ongoing issue.

Furthermore, there is no evidence to support the response at Step One. Logic dictates that the 'heat mitigation' that the response states we received is logistically impossible when the unit is so short staffed that it must be placed on lockdown. TDCJ's short staff/overcrowding issues are compounding the dangers of excessive heat conditions.

NOTICE: Please retain all camera footage from 5-8-22 for further litigation.

Offender Signature: _____

Date: _____

Grievance Response: _____

Your Step 2 grievance has been investigated by this office. You were appropriately advised at the Step 1-level. The safety and security of the inmate population is priority. Adherence to AD-10.64 "Excessive and Extreme Temperatures in the TDCJ" will continue to be monitored to ensure compliance. Based on the evidence available at this time, no further action is warranted.

Signature Authority: _____

Signature Authority: _____

Date: _____

AUG 02 2022

Returned because: *Resubmit this form when corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.*
- ☐ 3. Originals not submitted.*
- ☐ 4. Inappropriate/Excessive attachments.*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.*

CGO Staff Signature: _____

Signature Authority: _____

Signature Authority: _____

Signature Authority: _____

Returned because: *Resubmit this form when corrections are made.

☐ 1. Grievable time period has expired.

I-128 Back (Revised 11-2010)

☐ 3. Originals not submitted.***OFFICE USE ONLY****Initial Submission****CGO Initials:** _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

2nd Submission**CGO Initials:** _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

3rd Submission**CGO Initials:** _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

Appendix G



Texas Department of Criminal Justice

STEP 1 OFFENDER GRIEVANCE FORM

Elmore, James

Offender Name: James W. Elmore TDCJ # 2273850Unit: RB Housing Assignment: 4-EZ-30BUnit where incident occurred: Robertson Unit

OFFICE USE ONLY

Grievance #: 2022098159Date Received: MAY 11 2022Date Due: 06-20-22Grievance Code: 506-598Investigator ID #: I2133

Extension Date: _____

Date Retd to Offender: JUN 10 2022

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Officer on duty When? 5-8-22What was their response? "Rack up"What action was taken? None

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate.

On 5-8-22 the heat index temperature exceeded 106°F. TDCJ showed deliberate indifference towards my safety by placing the unit on lockdown at 12-noon and confining prisoners to their cells during the hottest part of the day. We were not provided cold water, showers, or access to respite areas. This is a common practice of the TDCJ.

Action Requested to resolve your Complaint.

Do not confine prisoners to cell during excessive heat.

Offender Signature: J.W. Ginoer

Date: 5-9-22

Grievance Response:

Your grievance has been reviewed and investigated. Inmates were given the opportunity to come out of their cells for cold water and cold showers. Inmates were observed using the regular showers and cold showers while others were in the dayroom. Respite areas are available upon request. There was no evidence found to support your allegation that staff failed to provide you with cold water, cold showers, or respite areas. No further action warranted.

J. COZBY, WARDEN

Signature Authority: J. Cozby

Date: 6/10/22

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. *
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments. *
- ☐ 5. No documented attempt at informal resolution. *
- ☐ 6. No requested relief is stated. *
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. *
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # _____
- ☐ 10. Illegible/Incomprehensible. *
- ☐ 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

I-127 Back (Revised 11-2010)

OFFICE USE ONLY

Initial Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

2nd Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

3rd Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

SEP 24 2022



Texas Department of Criminal Justice

STEP 2

OFFENDER GRIEVANCE

Offender Name: Elmore, James TDCJ# 2273850
 Unit: RB Housing Assignment: 4-E2-30B
 Unit where incident occurred: Robertson Unit
 Step 1 # 2022098159

OFFICE USE ONLY

Grievance #: 2022098159
 UGI Recd Date: JUN 20 2022
 HQ Recd Date: JUN 27 2022
 Date Due: 7-30-22
 Grievance Code: 500-598
 Investigator ID#: I1364
 Extension Date: SEP 08 2022

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be Specific). *I am dissatisfied with the response at Step 1 because...*

The response at Step One does not address the fact that it is deliberate indifference to our health and safety to lock us in our cells when the heat index exceeds 106°F. This is an ongoing issues.

Furthermore, there is no evidence to support the response at Step One. Logic dictates that the 'heat mitigation' that the response states we received is logistically impossible when the unit is so short staff/overcrowded that it must be placed on lockdown. TDCJ's short staff/overcrowding issues are compounding the dangers of excessive heat conditions.

NOTICE: Please retain all camera footage from 5-8-22 for further litigation.

Offender Signature: J.W. ElmoreDate: June 18, 2022

Grievance Response:

Your Step 2 grievance has been investigated by this office. You were appropriately advised at the Step 1 level. The safety and security of the inmate population is priority. Adherence to AD-10.64 "Excessive and Extreme Temperatures in the TDCJ" will continue to be monitored to ensure compliance. Based on the evidence available at this time, no further action is warranted.

Signature Authority: J. BackDate: AUG 02 2022Returned because: **Resubmit this form when corrections are made.*

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.*
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments.*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.*

CGO Staff Signature: _____

OFFICE USE ONLY**Initial Submission**

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

2nd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

3rd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

I-128 Back (Revised 11-2010)

Appendix G

UNITED STATES DISTRICT COURT
Southern District of Texas
P.O. Box 61010
Houston, Texas 77208

United States Courts
Southern District of Texas
FILED

NOV 01 2022

Nathan Ochsner, Clerk of Court 26th October 2022

RE: BAKER, et al., V. COLLIER, et al.

INITIATION OF §1983 CIVIL RIGHTS SUIT

MULTI-PLAINTIFF ACTION

To The Clerk,

Please find attached the following documents to initiate a §1983 Civil Rights Lawsuit:

- > ORIGINAL COMPLAINT (with attachments A and B)
- > Summons

The payment of the \$402 filing fee will be paid separately from this filing. Please let me know once this filing fee has been received, and how the Court would prefer us, as prisoners, to serve the Defendants. It is my understanding that the Defendants will all be represented by the Texas Attorney General.

Thank you for your time and assistance.

With Respect,

Matthew Baker

Matthew Baker #2227525
Robertson Unit
12071 F.M. 3522
Abilene, Texas 79601

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MATTHEW BAKER; ROBERT ANDREWS; §
TIMOTHY CONE; ALLEN KERNS; §
JAMES ELMORE; ADAM THOMAS; §
WILLIAM OLIVER; SETH BATTERTON; §
DANNIE CARTER; and JUAN MARTINEZ §
Individually and on behalf of all §
others similarly situated. §

PLAINTIFFS, §

V. § CIVIL ACTION No. _____

BRYAN COLLIER; OSCAR MENDOZA; §
BOBBY LUMPKIN; PATRICK D. §
O'DANIEL; DERRELYNN PERRYMAN; §
LARRY D. MILES; E.F. MANO §
DeAYALA; MOLLY FRANCIS; §
FAITH JOHNSON; SICHAN SIV; §
ERIC NICHOLS; and RODNEY §
BURROW §

Individually and in his or her §
official capacity. §

DEFENDANTS. §

SUMMONS

TO THE ABOVE-NAMED DEFENDANTS:

You are hereby summoned and required to serve upon Plaintiffs, whose address is: Robertson Unit, 12071 F.M. 3522, Abilene, Texas 79601, an answer to the Complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint.

Clerk of the Court

Date: _____

Matthew Baker #22-07525
Robinson Unit
12071 FM 3524
Abilene, TX 79601



United States District Court
Southern District of Texas
PO Box 61010
Houston, Texas 77208

Legal Correspondence

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